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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,518	12/17/2003	Rodney M. Welch	WEL003-092	4312

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EXAMINER

EL ARINI, ZEINAB

ART UNIT	PAPER NUMBER
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1746

DATE MAILED: 03/14/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/736,518

Applicant(s)

WELCH, RODNEY M.

Examiner

Zeinab E. EL-Arini

Art Unit

1746

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-27 is/are pending in the application.
- 4a) Of the above claim(s) 27 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 12/17/03.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Election/Restrictions

1. Applicant's election with traverse of claims 1-26 in the reply filed on 02/21/06 is acknowledged. The traversal is on the ground(s) that examining the method claim together with the apparatus claims would not create a burden on the examiner. This is not found persuasive because the process as claimed can be practiced by another dishwasher such as one without a controller and the apparatus as claimed can be used to practice another process such as one without a step of loading dishware into dish racks located in at least one of the first and second wash zones.

The requirement is still deemed proper and is therefore made FINAL.

Claim Rejections - 35 USC § 112

2. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

3. Claims 4-11 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 4, "said third dish rack", "said forth dish rack" and "the third width" are all without proper antecedent basis, because it is not clear if the forth dish rack and the third dish rack are in the lower dish rack or the upper dish rack.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 1, and 3-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kelsey (6,289,908) in combination with Welch et al. (6,260,565).

Kelsey discloses a dishwasher comprising side-by-side dishwashing cabinets, each provided with washing arm. The reference discloses the door assembly and the upper and lower dish racks. See the document in general.

The reference does not teach the width of the dish racks as claimed.

Welch et al. disclose a dishwasher having two compartments which can be operated independently of one another. The reference also discloses a double dishwasher having one compartment smaller than the other for washing smaller batches of items to be washed. The reference also discloses that the two compartments can be oriented side by side. See col. 1, lines 13-19, and col. 2, lines 3-5.

It would have been obvious for one skilled in the art to use the width of the dish racks taught by Welch et al. in the Kelsey dishwasher to obtain the claimed dishwasher, and to improve the efficiency of using the dishwasher.

6. Claim 2 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kaufman et al. (3,466,109) in combination with Welch et al.

Kaufman et al. disclose a dishwasher comprising a tub, a partition wall, first and second upper dish racks, and lower dish rack. See fig. 1, the abstract, col. 2, lines 7-24, col. 4, lines 1-33, and claim 2.

Kaufman et al. do not teach the width as claimed.

It would have been obvious for one skilled in the art to use the width of the dish racks taught by Welch et al. in the Kaufman et al. dishwasher to obtain the claimed dishwasher, and to improve the efficiency of using the dishwasher.

Claim Rejections - 35 USC § 102

7. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claim 18 is rejected under 35 U.S.C. 102(b) as being anticipated by Mazza (3,586,011).


Mazza discloses a dishwasher comprising a tub, a partition wall, a door assembly and a controller as claimed. See the abstract, and Figs. 1 and 4.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Zeinab E. EL-Arini whose telephone number is (571) 272-1301. The examiner can normally be reached on Monday-Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Barr can be reached on (571) 272-1414. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Zeinab E. EL-Arini
Primary Examiner
Art Unit 1746

ZEE
03/13/06